

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRETT P. RYAN,

Plaintiff,

v.

CAROLYN W COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 14-cv-05300 JRC

ORDER GRANTING MOTION FOR
ATTORNEY'S FEES PURSUANT
TO 42 U.S.C. § 406(b)

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, Dkt. 5; Consent to Proceed Before a United States Magistrate Judge, Dkt. 6).

This matter is before the Court on plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) (*see* Dkt. 25). Defendant has no objection to plaintiff's request (*see* Dkt. 27).

The Court may allow a reasonable fee for an attorney who represented a Social Security Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v. Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first to such agreement and will conduct an independent review to assure the reasonableness of the

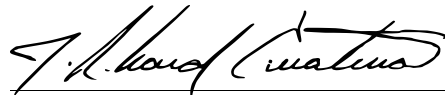
1 fee requested, taking into consideration the character of the representation and results achieved.
2 *See Grisbrecht, supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the
3 fee agreement is the primary means for determining the fee, the Court will adjust the fee
4 downward if substandard representation was provided, if the attorney caused excessive delay, or
5 if a windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151
6 (9th Cir. 2009) (*citing Grisbrecht, supra*, 535 U.S. at 808).

7 Here, the representation was standard, at least, and the results achieved excellent (*see*
8 Dkt. 25, Attachments 1, 2). *See Grisbrecht, supra*, 535 U.S. at 808. There has not been excessive
9 delay and no windfall will result from the requested fee.

10 The Social Security Administration has withheld 25% of the past due benefits awarded
11 and is holding \$18,233.98 for the payment of attorney fees (*see* Dkt. 25, Attachment 2, p. 5).
12 Plaintiff has moved for a net attorney's fee of \$10,889.49, which is the \$18,233.98 currently held
13 by the agency less the \$7,344.49 EAJA attorney fee award (*see* Motion, Dkt. 25; Order
14 Awarding EAJA Fees, Dkt. 24). *See* 31 U.S.C. §§ 3711(a), 3716(a); *Astrue v. Ratliff*, 130 S.Ct.
15 2521, 2524, 2010 U.S. LEXIS 4763 at ***6-***7 (2010); *see also Parish v. Comm'r. Soc. Sec.*
16 *Admin.*, 698 F.3d 1215, 1221 (9th Cir. 2012).

17 Based on plaintiff's motion and supporting documents (*see* Dkt. 25, 25-1, 25-2), and with
18 no objection from defendant (Dkt. 27), it is hereby ORDERED that attorney's fees in the amount
19 of \$10,889.49 be awarded to plaintiff's attorney pursuant to 42 U.S.C. § 406(b).

20 Dated this 9th day of October, 2015.

21
22 
23 J. Richard Creatura
24 United States Magistrate Judge